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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ALGONQUIN SHIPPING CORP.,

Petitioner

against

ARCHER DANIELS MIDLAND COMPANY
(a/k/a ARCHER-DANIELS-MIDLAND CO.)

Respondent

Civil Action No.13-cv-1747 (JMF)

**PETITION TO CONFIRM
ARBITRATION AWARD**

Petitioner Algonquin Shipping Corp. (“Algonquin” or “Petitioner”), by and through its attorneys, Freehill Hogan & Mahar, LLP, for its Petition herein, states as follows:

NATURE OF PROCEEDINGS

1. Petitioner brings this summary proceeding pursuant to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “Convention”), 9 U.S.C. §§ 201-208, and the Federal Arbitration Act (the “FAA”), 9 U.S.C. §§ 1-16, to confirm an arbitration award issued in New York City by the Society of Maritime Arbitrators, Inc. in Petitioner’s favor against Respondent Archer Daniels Midland Company (“ADM” or “Respondent”).

THE PARTIES

2. Petitioner is a business entity organized under the laws of the Marshall Islands with its principal place of business in Bermuda.

3. Respondent ADM is a business entity organized under the laws of the State of Delaware with its principal place of business in the State of Illinois.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this proceeding pursuant to 9 U.S.C. §§ 201 and 203.

5. Further, this Court has diversity jurisdiction pursuant to 28 U.S.C. §1332 because there is complete diversity between the parties and more than \$75,000, exclusive of interest and costs, is at stake in this controversy.

6. Venue in this Court is proper pursuant to 9 U.S.C. §9 and/or §204 and 28 U.S.C. §1391(d).

7. This Court also has personal jurisdiction over ADM, as the agreed-upon arbitration clause designated New York as the place of arbitration and ADM participated in the arbitration in New York City.¹ Further, upon information and belief, ADM conducts systematic and substantial business within New York thereby subjecting it to personal jurisdiction here.

FACTUAL BACKGROUND

8. On or about September 16, 2008, Petitioner, as seller, and ADM, as buyer, entered into a contract for the sale of the M/V ALGONQUIN, the terms of which included the Norwegian Sale Form 1993.

9. The contract contained an arbitration clause whereby disputes arising out of or relating to the parties' contract were to be submitted to arbitration at New York in accordance with the rules of the Society of Maritime Arbitrators, Inc. ("SMA"). (A true and correct copy of

¹ See *NGC Network Asia, LLC v. Pac Pacific Group Int'l, Inc.*, No. 09-cv-8684 (PGG), 2010 U.S. Dist. LEXIS 99062 (S.D.N.Y. Sept. 17, 2010) ("A party who agrees to arbitrate in a particular jurisdiction consents not only to personal jurisdiction but also to venue of the courts within that jurisdiction.")

the documents which comprise the contract and the arbitration clause (Clause 16) is attached hereto as **Exhibit A.**)

10. Following ADM's breach of the contract, Petitioner commenced arbitration in accordance with the governing arbitration clause.

11. A panel of three arbitrators was selected with Petitioner appointing one, ADM appointing another, and the two so chosen selecting the third to serve as Chairman.

12. The parties thereafter exchanged pre-arbitration submissions in the form of claim statements, responses, and replies; discovery requests and responses; and letter briefing.

13. Oral argument was also held before the Panel on July 12, 2012.

14. On February 13, 2013, the Panel issued its Award (the "Award") finding in favor of Petitioner against Respondent and awarding Petitioner the following:

Compensatory damages for breach of the sales contract:	\$4,582,500.00
Interest at the rate of 3.25% p.a. from January 14, 2009, to the date of the award:	\$608,373.96
Allowance towards Petitioner's legal fees:	\$137,901.77
Allowance for arbitrators fees:	<u>\$20,991.65</u> \$5,349,767.38

(A true and correct copy of the Award is attached hereto as **Exhibit B.**)

15. Additionally, the Panel directed that if payment has not been made within 30 days after issuance of the Award, post-Award interest shall continue to accrue at the rate of 3.25% p.a. on the principal amount of \$4,582,500, until the Award has been paid or reduced to judgment, whichever occurs first.

16. The arbitration clause provided that this Award may be made a rule of the Court.

17. Despite due demand, ADM has not yet paid any part of the Award to Petitioner or indicated any intent to do so.

THE AWARD IS ENTITLED TO CONFIRMATION

18. This Petition has been brought within the time period required by the Convention and FAA.

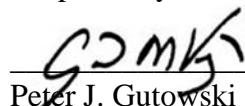
19. There are no valid grounds to vacate, modify, or refuse to confirm the Award.

20. There are no pending applications to vacate or modify the Award.

21. Accordingly, the Award must be confirmed as a valid and enforceable final arbitration award pursuant to 9 U.S.C. §207 and 9 U.S.C. §9.

WHEREFORE, Petitioner respectfully prays that the Court enter an order, pursuant to 9 U.S.C. §207 and/or 9 U.S.C. §9, confirming the Award against Respondent ADM and directing that judgment be entered thereon in this Court, together with interest and the costs and attorneys fees incurred in connection with this proceeding, and such other and further relief as the Court may deem just, proper, and equitable.

Respectfully submitted,


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